IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

PRESIDENT AND FELLOWS OF HARVARD COLLEGE and MASSACHUSETTS INSTITUTE OF TECHNOLOGY, *Plaintiffs*, v. UNITED STATES DEPARTMENT OF HOMELAND SECURITY, *et al.*, *Defendants*.	)))))))))) Case No. 1:20-cv-11283-ADB)))))))

**UNOPPOSED MOTION OF THE AMERICAN COUNCIL ON EDUCATION AND
70 OTHER HIGHER EDUCATION ORGANIZATIONS FOR LEAVE TO FILE
AMICUS CURIAE BRIEF IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTIVE RELIEF**

The American Council on Education (ACE) and 70 other higher education organizations

respectfully request leave to file the attached brief as *amici curiae* in support of Plaintiffs'

motion for preliminary injunctive relief. (Attached as Exhibit 1). While there are "no procedural

rules" specifically on point, this Court has "inherent authority and discretion to appoint amici,"

Boston Gas Co. v. Century Indem. Co., No. 02–12062–RWZ, 2006 WL 1738312, at *1 n.1 (D.

Mass. June 21, 2006). And the courts of this Circuit are "usually delighted to hear additional

arguments from able amici that will help the court toward right answers." *Massachusetts Food

Ass'n v. Massachusetts Alcoholic Beverages Control Comm'n*, 197 F.3d 560, 567 (1st Cir. 1999).

Amicus briefs best aid this Court's deliberation when they provide "supplementary assistance to

existing counsel" and ensure "a complete and plenary presentation of difficult issues so that the

court may reach a proper decision." *See Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 308 F.R.D. 39, 52 (D. Mass. 2015) (quotation omitted), *aff'd*, 807 F.3d 472 (1st Cir. 2015).

ACE is a national organization representing more than 1,700 American colleges and universities, related associations, and other organizations; its members educate two out of every three students in all accredited, degree-granting U.S. institutions of higher learning. ACE is joined in this *amicus* brief by dozens of other higher education organizations, as described in the addendum to the proposed brief. *Amici* have a strong interest in preserving the rule of law and ensuring that international students in the United States on F-1 and M-1 nonimmigrant visas are able to continue contributing to American colleges and universities without endangering their, their families', and their communities' safety during an evolving and uncertain global pandemic. *Amici* and their members have extensive experience with and responsibility for the complex, difficult, and time-sensitive on-the-ground decisions currently facing higher education leaders across campuses of all stripes nationwide.

Amici have prepared the enclosed brief because they and their members will be directly and imminently harmed, in myriad institution-specific ways, by the United States Department of Homeland Security's July 6, 2020 Student Exchange and Visitor Program guidance under challenge absent preliminary judicial relief. That directive, which abruptly reversed the previously prevailing status quo without explanation, threatens to upend campus life by making hundreds of thousands of international students subject to immediate forced removal from the United States if they are unable to attend in-person classes for the upcoming fall semester despite the global COVID-19 pandemic. And despite the chaos it has already wrought, that unexplained and inexplicable directive provides no reasoned basis for the Administration's about-face and

fails to consider obvious concerns of the first order that flow from the enormous hardships imposed. The attached brief provides greater context about the nature and scope of those unacknowledged burdens being unlawfully foisted onto American colleges and universities. *Amici* respectfully submit that the information provided therein, based on their unique perspective and experiences, will assist the Court in resolving Plaintiffs' motion.

Plaintiffs filed their motion for a temporary restraining order on July 8, 2020, Dkt. 4, and this Court ordered that motion consolidated with Plaintiffs' request for a preliminary injunction at a status conference held on July 10, 2020, Dkts. 25, 30. Our motion for leave to file has been timely filed in accordance with this Court's July 10, 2020 order and will neither unduly burden nor delay the Court's deliberation.

Amici have consulted with the parties, none of which objects to this motion; specifically, plaintiffs consent and the government takes no position. Furthermore, no party or counsel for a party authored the brief in whole or in part, and no party, counsel for a party, or person other than *amici curiae*, their members, or their counsel made any monetary contribution intended to fund the preparation or submission of this brief.

For these reasons, the motion for leave to file the attached *amicus curiae* brief should be granted.

Respectfully submitted,

Dated: July 13, 2020

/s/ *Gregory F. Noonan*
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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

The undersigned hereby certifies that counsel for the above-listed *amici curiae* have

conferred with the parties in good faith and none objects to the filing of the proposed *amicus*

brief. Specifically, the Presidents and Fellows of Harvard College and Massachusetts Institute of

Technology have consented to the filing of that brief, while the Government takes no position.

/s/ *Gregory F. Noonan*
Gregory F. Noonan

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the Court's ECF system on July 13, 2020, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent by mail to non-registered participants.

/s/ *Gregory F. Noonan*
Gregory F. Noonan